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2009 Analysis Of Impediments To Fair Housing Choice In Lexington-Fayette County, Kentucky

**A Report To The
Lexington-Fayette Urban
County Government**

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- ❖ William D. Wharton, Executive Director, Lexington-Fayette Urban County Human Rights Commission
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This Analysis of Impediments to Fair Housing Choice in Lexington-Fayette County, Kentucky will serve as a resource for affirmatively furthering fair housing and will also

serve as a guide for fair housing choice planning in all neighborhoods and communities that comprise Lexington-Fayette County, Kentucky.

The Chaucer Group LLC wants to thank the various public sector, private sector and community representatives involved in the variety of data collection, research analyses, and oral interviews which led to the successful development and completion of this report. The Chaucer Group LLC takes full responsibility for the content of this report as well as any errors or omissions therein.

INTRODUCTION

Since the inception of the U.S. Department of Housing and Urban Development (HUD), the agency has been committed to eliminating racial discrimination and racial segregation as it pertains to the development, provision, ownership and management of housing in America. In order to affirmatively further fair housing, HUD has as its mission "to create equal housing opportunities for all persons living in America by administering laws that prohibit discrimination in housing on the basis of race, color, religion, sex, national origin, age, disability and familial status." In enforcing its mission, HUD advocates federal laws and establishes national policies that make sure all Americans have equal access to the housing of their choice.

In order to ensure the prevention and elimination of racial and housing discrimination, and racial and housing segregation as it pertains to fair housing choice, the U.S. Department of Housing and Urban Development (HUD) requires and places the responsibility on all entitlements or jurisdictions directly receiving any of the four (4) HUD formula grant programs (CDBG, HOME, ESG and HOPWA¹), as a part of the Consolidated Planning process, to certify that it will "affirmatively further fair housing choice" within their area of authority. This requirement is codified in the Consolidated Planning process requirements under 24 CFR 91.225. Public and private entity obligations under 24 CFR 91.225 can be grouped into three categories:

Intent: the obligation to avoid policies, customs, practices or processes whose intent or purpose is to impede, infringe, or deny the exercise of fair housing choice on the basis of race, color, religion, sex, national origin, age, disability and familial status.

Effect: the obligation to avoid policies, customs, practices, or processes whose effect or impact is to impede, infringe, or deny the exercise of fair housing rights on the basis of race, color, religion, sex, national origin, age, disability and familial status.

Affirmative Duties: the obligation and fiduciary responsibility of public agencies to anticipate policies, customs, practices, or processes that previously, currently, or may potentially impede, infringe, or deny the exercise of fair housing choice on the basis of race, color, religion, sex, national origin, age, disability and familial status.

The first two (2) obligations pertain to public agency operations and administration, including those of employees and agents, while the third obligation extends to private as well as public sector activity.

¹Community Development Block Grant = CDBG; HOME Investment Partnership Program = HOME; Emergency Shelter Grant = ESG; and Housing For Persons With AIDS = HOPWA.

Receipt of any of the aforementioned HUD four (4) formula grant programs is predicated upon receipt of the local entitlement's or jurisdiction's Consolidated Plan along with an Analysis of Impediments to Fair Housing Choice (AI) which identifies the impediments and provides strategies to cure the impediments identified in the AI.

Affirmatively furthering fair housing is defined by HUD as requiring a local entitlement or jurisdiction (grantee) to conduct an analysis to identify impediments to fair housing choice within the jurisdiction; to take appropriate actions to overcome the effects of any impediments identified through the analysis; and to maintain records reflecting the AI and actions taken in this regard.

Analysis of Impediments to Fair Housing Choice (AI) consists of three (3) broad areas:

- ❖ An overview of demographic and housing market conditions in the local jurisdiction particularly as they pertain to housing choice
- ❖ A profile of fair housing in the local jurisdiction including current laws, policies and practices, and the number and status of any fair housing complaints in the local jurisdiction
- ❖ An assessment of various market and public policy impediments to fair housing choice

HUD defines impediments to fair housing choice as:

- ❖ Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices; and
- ❖ Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin.

It is important to realize that HUD does not restrict the scope of the AI to those actions that are in direct violation of federal, state or local fair housing laws, but rather to actions, omissions or decisions that have the ultimate effect of restricting fair housing choice.

OVERVIEW OF METHODOLOGY

The Chaucer Group LLC prepared this AI under contract with the Lexington-Fayette Urban County Government's Division of Community Development. In preparing this AI, a variety of data collection and analytical techniques were used. In addition, a series of interviews were conducted with both public sector and private sector stakeholders, meaning, individuals who are knowledgeable about housing and fair housing issues in the Lexington-Fayette County jurisdiction. During the interview process, each of the stakeholders was asked the following questions:

1. What they considered to be the primary impediments to fair housing choice in the Lexington-Fayette County jurisdiction?
2. What actions must the Lexington-Fayette County jurisdiction take to cure these impediments?

The effect of local planning and zoning statutes on fair housing choice was analyzed; an assessment of the housing conditions, both private and public, affecting fair housing choice was conducted; and data from the 2005-2007 American Community Survey was comprehensively anatomized.

The combination of the stakeholder interviews and the various sources of data analysis helped to determine the below listed impediments to fair housing choice in the Lexington-Fayette Urban County jurisdiction as well as the proposed recommendations, cited herein, to cure the impediments.

SUMMARY OF FINDINGS: IMPEDIMENTS TO FAIR HOUSING CHOICE AND RECOMMENDED ACTIONS

Impediments to fair housing choice can result from any number of factors including lack of affordable housing, regulatory barriers associated with planning and zoning, the concentration of affordable housing in specific neighborhoods and/or communities, instances of NIMBYISM or "not in my back yard" due to myths and fears about neighborhood and/or community change, administrative law policies and procedures, etc.

Overall, we found three (3) major impediments to fair housing choice affecting all neighborhoods and/or communities throughout Lexington-Fayette County, Kentucky. The three (3) major impediments are as follows:

- Individuals and/or households in the Lexington-Fayette County, Kentucky jurisdiction may not consider housing opportunities across a broad range of neighborhoods and communities that provide a desired quality of life and contain quality affordable housing.
- Lack of adequate funding for the Lexington-Fayette Urban County Human Rights Commission to support the commission's comprehensive efforts to affirmatively further fair housing choice throughout the Lexington-Fayette County, Kentucky jurisdiction.
- Lack of adequate code enforcement as it pertains to the availability of decent and desirable private sector rental housing for all residents throughout the Lexington-Fayette County, Kentucky jurisdiction.

Each of these impediments reduces housing choices for particular populations in the Lexington-Fayette County, Kentucky jurisdiction. Our analysis suggests that while income disparities across racial and ethnic groups contribute to segregated residential patterns, our analysis suggests that households across all income groups live in racially and ethnically segregated neighborhoods. In particular, black households of all incomes live in neighborhoods with disproportionately fewer whites. This finding means that black households who can afford to live in predominantly white neighborhoods do not do so because (1) they choose not to or they prefer to live in neighborhoods which are reflective of their family roots; or (2) other factors (such as discrimination) prevent them. To the extent that such decisions are a matter of choice, households may not be making decisions with information about the full range of options available throughout the Lexington-Fayette County area, and so restrict their housing searches to a subset of neighborhoods. These search patterns reinforce segregation in the city of Lexington and the county of Fayette.

The core purpose and effort associated with affirmatively furthering fair housing choice is being threatened in Lexington-Fayette County, Kentucky due to the inadequate funding of the Lexington-Fayette Urban County Human Rights Commission. The funding for this commission must be increased since much more work is needed to support both the principles and enforcement of fair housing and to affirmatively further fair housing in neighborhoods and communities throughout Lexington-Fayette County, Kentucky.

It is apparent that the Lexington-Fayette Urban County government is committed to providing opportunities for safe, decent and affordable rental housing for all of its residents, unfortunately there is a lack of building code compliance by many private sector landlords in neighborhoods and communities throughout Lexington-Fayette County, Kentucky. There are too many private sector rental property owners who are failing to properly maintain their properties.

This report summarizes our recommendations to address each of the three impediments described above. The recommendations, detailed further in this report, address the impediments by (1) providing other forms of information and counseling services to residents regarding housing opportunities throughout Lexington-Fayette County, Kentucky; (2) enhancing the effectiveness of fair housing enforcement in order to increase compliance and to affirmatively further fair housing throughout Lexington-Fayette County, Kentucky; and (3) implementing actions identified to improve code enforcement thereby affirmatively furthering fair housing opportunities in neighborhoods and communities throughout Lexington-Fayette County, Kentucky.

Because assigning responsibility for individual recommendations is beyond the scope of this analysis, in other than the most obvious cases, we have not identified specific local government agencies or other entities that would implement specific recommendations as cited in this report. Nonetheless, any plan to implement the recommendations would need to address budgetary, regulatory, and other administrative constraints, and would also need to recognize that some recommendations may involve more planning and take more time to put into action than others. It is important that the recommended actions speak specifically to Lexington-Fayette Urban County Government creating opportunities that will stimulate the development of attractive and inclusive neighborhoods and communities offering fair housing choices to all residents of Lexington-Fayette County, Kentucky.

IMPEDIMENTS TO FAIR HOUSING CHOICE AND RECOMMENDED ACTIONS

In preparing this analysis of impediments report, we reviewed a wide range of information – secondary data, key stakeholder interviews, and published reports and research literature – to identify impediments to fair housing choice, including relevant laws, regulations, administrative policies, procedures and practices within Lexington-Fayette County, Kentucky. All of this information is brought together in this section in our discussion of impediments and recommended actions to address these impediments.

Each of the three impediments is discussed in turn in this section. For each impediment, we present one or more specific recommendations that we believe, if taken by Lexington-Fayette Urban County Government, will significantly reduce this impediment to fair housing choice.

Impediment #1: Individuals and/or households in the Lexington-Fayette County, Kentucky jurisdiction may not consider housing opportunities across a broad range of neighborhoods and communities that provide a desired quality of life and contain quality affordable housing.

Segregated residential patterns in Lexington-Fayette County, Kentucky may be caused by several factors, including possible unlawful discrimination and differences in income levels among racial and ethnic groups. In addition, the observed segregation may be the result of personal decisions to live in neighborhoods that have large shares of residents who are similar in terms of race or ethnicity. Such decisions could reflect a reluctance of Lexington-Fayette County, Kentucky residents to move into neighborhoods of a different racial/ethnic group because of fear of prejudice, discrimination, or non-acceptance.

A resident's preference of where to live may be partially driven by stereotypes of certain neighborhoods, some of which may be based on fact, while others may be a result of a lack of knowledge, outdated information, or misperceptions. It is likely that most people moving to Lexington-Fayette County for the first time may have these ill conceived perceptions, but also many current residents may lack familiarity with certain parts of the Lexington-Fayette County jurisdiction and therefore do not consider looking for housing in some areas that may, in fact, provide affordable housing with desired neighborhood amenities.

Another contributing factor to this impediment is that affordable housing units in desirable neighborhoods are frequently not advertised in the newspaper or in apartment listings. Another publicly well known contributing factor is that in many desirable neighborhoods where housing units are available, landlords are "renting down" meaning renting to individuals and/or households who can afford a much higher rent thereby not making the unit available to individuals and/or households capable of paying the rent which is affordable and marketable in the desirable neighborhoods. Since the Lexington-Fayette County is segregated by race and ethnicity, it may also be that many black and Latino households are not aware of affordable housing in predominantly white neighborhoods while whites are not familiar with housing options in mostly black or Latino neighborhoods.

Recommendations For Increasing Knowledge Of Housing Opportunities Throughout Lexington-Fayette County, Kentucky

While there are different sources of information about housing opportunities in the Lexington-Fayette County jurisdiction, there is no single reliable source that currently provides this type of information in conjunction with services that would promote fair housing, enhance housing choices for anyone seeking such information, and heighten diversification of neighborhoods and communities. Creating a consumer housing information officer position within the Community Development Division of the Lexington-Fayette Urban County Government would make this proposed cure to this impediment an obligation of the Lexington-Fayette Urban County Government. The individual serving as the consumer housing information officer would provide information to individuals and/or households seeking desirable and affordable housing (both rental and homeownership); and develop and initiate affirmative marketing strategies to promote affordable housing choices and opportunities throughout Lexington-Fayette County, Kentucky.

The information provided by the consumer housing information officer would not be limited to providing information to individuals and/or households, but would also be provided to non-profit community development organizations, housing counseling organizations, churches, faith-based organizations, realtors, etc.

The consumer housing information officer's affirmative marketing campaign would provide pertinent information about cultural, educational, spiritual, recreational, commercial, and other services located in neighborhoods and communities which are not well known by individuals and/or households in their search for desirable and affordable housing.

The consumer housing information officer would also compile and maintain lists of desirable and affordable housing units that are accessible to individuals with disabilities. This list could be compiled from both public sector and private sector housing providers

and would make it less stressful for individuals with disabilities to locate desirable and affordable housing throughout Lexington-Fayette County, Kentucky.

Impediment #2: Lack of adequate funding for the Lexington-Fayette Urban County Human Rights Commission to support the commission's comprehensive efforts to affirmatively further fair housing choice throughout the Lexington-Fayette County, Kentucky jurisdiction.

The Lexington-Fayette Urban County Human Rights Commission was created in 1974 and it is an independent chartered agency of the Lexington-Fayette Urban County Government with three (3) specific functions: (1) to receive complaints, conduct investigations, hold hearings and have such studies made as well as enable the Lexington-Fayette Urban County Human Rights Commission to carry out the purpose of federal fair housing laws and the following state and local ordinances: Kentucky Civil Rights Act (K.R.S. Chapter 344), provision 7.17 of the Lexington Fayette Merger Charter of 1974 and Urban County Ordinances 199-94 and 201-99; (2) to promote and secure a mutual understanding and respect among all ethnic groups in Lexington-Fayette County; and (3) to act as conciliator in controversies involving inter-group and inter-racial relations.

The Lexington-Fayette Urban County Human Rights Commission is on the front line with regard to enforcement of fair housing laws in the Lexington-Fayette County jurisdiction. The commission has been unable to increase outreach and education methods in order to increase awareness of fair housing laws and ordinances, issues and resources. Outreach and education methods must include all forms of print and electronic brochures, fact sheets, advertising, etc. Outreach and education must also include individuals, landlords, other housing professionals, residential property managers, government agencies, employers, etc.

The Lexington-Fayette Urban County Human Rights Commission has not been able to conduct testing which is the most effective tool in existence to combat unlawful housing discrimination.

The Lexington-Fayette Urban County Human Rights Commission does not have attorneys on staff to review and adjudicate cases after complaints have been filed and investigated by staff investigators.

The Lexington-Fayette Urban County Human Rights Commission has not been able to conduct substantive fair housing research which would address enforcement and assess fair housing impact reviews.

Recommendations To Cure Fair Housing Deficiencies At The Lexington-Fayette Urban County Human Rights Commission

Since the staff and board commissioners of the Lexington-Fayette Urban County Human Rights Commission are dedicated to ensuring that individual choice, and not discrimination, determines where people live in Lexington-Fayette County, funding for the Lexington-Fayette Urban County Human Rights Commission must be increased to ensure that any fair housing issues in communities throughout Lexington-Fayette County are approached and resolved comprehensively and satisfactorily. The additional funds will significantly heighten the presence and effectiveness of the commission which can only improve the public's awareness about fair housing laws, support increased and effective fair housing enforcement, develop partnerships with industry leaders in the housing sector, and help build or rebuild diverse communities in the Lexington-Fayette County, Kentucky jurisdiction.

The Lexington-Fayette Urban County Human Rights Commission must be able to hire attorneys to adjudicate unlawful housing practices associated with the satisfactory resolution of fair housing complaints. It is critical to the enforcement operations of the commission that hearings are held on matters being adjudicated along with rendering written legal opinions and annual reports of its activities and recommendations to citizens and local governing officials.

The current fair housing enforcement system in Lexington-Fayette County is dependent on individuals recognizing that their rights have been violated and initiating the filing of a complaint of discrimination with the Lexington-Fayette Urban County Human Rights Commission. In many instances, individuals are not aware that they have been the victim of housing discrimination and are unaware that they should file a complaint. As a consequence, many unlawful acts of discrimination are not detected and the unlawful acts of discrimination continue to occur.

The Lexington-Fayette Urban County Human Rights Commission must be able to conduct testing which, on a national basis, has been used and continues to be used as the most effective means to successfully research and provide the basis for discrimination lawsuits. Testing can address discrimination for all protected classes (race, color, sex, religion, national origin, familial status, disability, and sexual orientation/gender identity) and for all types of housing activity (rental, homeownership, home financing, etc.).

Testing results can provide statistical data that can measure the level of compliance by landlords, realtors, lenders, property management and real estate companies, etc. with the fair housing laws in Lexington-Fayette County. Testing can be used to initiate and file lawsuits with the Lexington-Fayette Urban County Human Rights Commission and the courts against persons and/or companies found to be in non-compliance with local

and/or federal fair housing laws. Testing can also be used to address any non-compliance activities associated with fair housing advertising.

The Lexington-Fayette Urban County Human Rights Commission must be able to conduct fair housing research by collecting and making available data on which strong fair housing strategies can be built; developing substantive research in areas are important for fair housing activities; and addressing how people and communities react to residential diversity and what actions can incentivize and encourage diverse communities. Reliable data will be a core component for enforcement and for affirmatively furthering fair housing in the Lexington-Fayette County jurisdiction. Data on patterns of racial segregation, racially and ethnically transitional areas, and the composition of federally funded housing must be reliable and readily available in order to assess compliance with local and federal fair housing laws.

Impediment #3: Lack of adequate code enforcement as it pertains to the availability of decent and desirable private sector rental housing for all residents throughout the Lexington-Fayette County, Kentucky jurisdiction.

There are too many private sector rental housing property owners in Lexington-Fayette County who are failing to properly maintain their properties. This failure continues to not only create public nuisances in neighborhoods and communities, but it also serves as a barrier to affirmatively furthering fair housing choice since individuals searching for decent and desirable rental housing are confronted with limited housing opportunity choices and options. This is not just an affordable housing issue, but an issue facing individuals and/or households of varied income levels.

Several key stakeholders that were interviewed also commented on the fact that some of their clientele (low to moderate income individuals and/or households) were reluctant to rent or purchase housing in certain neighborhoods and/or communities in Lexington-Fayette County due to the undesirable exterior condition of existing rental housing. The undesirable exterior condition of the rental housing included loitering, lack of exterior front entry doors, poor exterior property maintenance, criminal activity, etc.

It must be stated that the Lexington-Fayette Urban County Government is committed to ensuring that there is available, adequate, decent and desirable private sector rental housing for all residents who live within the Lexington-Fayette County jurisdiction. The housing needs of residents as it pertains to the availability of adequate, decent and desirable private sector rental housing must be addressed via strict code enforcement in all neighborhoods and communities. It must be a priority for the Lexington-Fayette Urban County Government to initiate a redevelopment strategy that focuses on targeting blight in neighborhoods and communities by offering a comprehensive strategy of code enforcement.

Recommendations To Ensure Housing Code Compliance By Private Sector Landlords Within The Lexington-Fayette County Jurisdiction

The comprehensive strategy of code enforcement by the Lexington-Fayette County Urban Government on private sector rental housing property owners must include the following:

- Conduct regular comprehensive sweeps of the neighborhoods and communities to proactively identify problems
- Review and improve the system to monitor existing code enforcement efforts
- Review and update existing nuisance abatement codes addressing excessive noise, garbage, alcoholic beverages, curfews, drug dealing, gambling, prostitution, animal control, and lack of parental responsibility
- Evaluate the effectiveness of existing penalties for noncompliance and modify as appropriate
- Improve technology, as necessary, to integrate property-tracking functions for better inter-departmental communications and enforcement
- Expand code enforcement staff as necessary to meet code enforcement needs. The goal is to provide dedicated code enforcement coverage to all neighborhoods and communities throughout the jurisdiction
- Evaluate the feasibility of publishing names of code violators and creating a searchable website

Private sector rental property owners might benefit from training to increase awareness of fair housing laws, issues and resources; how to choose good tenants; how to select a good property management company; how to comply with building code requirements; how to perform self-property management, etc. General education may be needed for private sector rental property owners with an interest in participating in the Housing Choice Voucher Program as it pertains to program introduction and overview, how they as rental property owners can participate in the program, etc.

FINANCIAL LITERACY

It must be noted that the Lexington-Fayette Urban County Human Rights Commission has begun to address the issue of financial literacy to ensure that appropriate financial counseling and training is adequate and accessible to all residents of Lexington-Fayette County in need of such assistance.

The Lexington-Fayette Urban County Human Rights Commission is of the opinion that the value of housing counseling services and training to the broader public, particularly in low and moderate income communities, cannot be ignored since these populations are most susceptible to not understanding mortgage products and services, while simultaneously forging ahead to accept and sign loan documents thereby further compounding their financial challenges on a long-term basis.

William Wharton, Executive Director of the Lexington-Fayette Urban County Human Rights Commission, is a member of the Mayor's Commission on Mortgage Lending Practices and at the recommendation of Mr. Wharton, the Commission focused on examining financial literacy programs with regard to appropriate content and broad-based accessibility; and encouraging mortgage lenders to come forward with diversified loan products and services that meet the needs of Lexington-Fayette County's diversified population (including those middle and upper income individuals who are of the opinion that financial literacy counseling and training is not something they need).

While it is important to have the aforementioned services available, it is equally important for residents of Lexington-Fayette County to acknowledge the necessity for these services. It is also equally important for housing counseling agencies to realize that comprehensive housing counseling must be available to clients as it pertains to the soft side of housing counseling which includes: (1) how to look for a home, understanding credit scores, understanding how to manage a household budget, etc. to the more critical and necessary components of housing counseling which includes: (2) understanding mortgage loan underwriting and origination, understanding mortgage loan terms and conditions, understanding how to navigate various mortgage loan products and services, understanding the language of mortgage loan lenders, understanding the mortgage loan product being offered, understanding the consequences of mortgage delinquency and default, and understanding how to recognize predatory lenders.

It is most advantageous for housing counseling agencies to have some housing counseling staff with actual experience in residential lending and financing so that clients fully understand the dynamics of the homebuyer process along with the fundamentals of residential lending and finance.

LEXINGTON-FAYETTE COUNTY'S CURRENT FAIR HOUSING PROFILE

This section provides an overview of the fair housing situation in Lexington-Fayette County, Kentucky. It includes a review of fair housing laws, enforcement agencies, trends in fair housing complaints and other fair housing activities in the jurisdiction.

Fair housing in Lexington-Fayette County, Kentucky is bound by a number of federal and local laws and Presidential executive orders. Below is a summary of the relevant legislation and executive orders currently in effect.

Federal Fair Housing Laws²

- **Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended.** Prohibits discrimination in the sale, rental and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and handicap (physical or mental impairment which substantially limits one or more of such person's major life activities). Amendments also established that new multi-family buildings must meet specified accessibility standards for persons with disabilities.
- **Title VI of the Civil Rights Act of 1964.** Prohibits discrimination on the basis of race, color or national origin in programs and activities receiving federal financial assistance.
- **Section 504 of the Rehabilitation Act of 1973.** Prohibits discrimination based on disability in any program or activity receiving federal financial assistance.
- **Section 109 of Title I of the Housing and Community Development Act of 1974.** Prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant Program.
- **Title II of the Americans with Disabilities Act of 1990.** Prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance, and housing referrals.

² HUD, OFHEO (Office of Fair Housing and Equal Opportunity) 2004a

- **Architectural Barriers Act of 1968.** Requires that buildings and facilities designed, constructed, altered or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.
- **Age Discrimination Act of 1975.** Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- **Title XI of the Education Amendments Act of 1972.** Prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

Fair Housing-Related Presidential Executive Orders³

- **Executive Order 11063.** Prohibits discrimination in the sale, leasing, rental or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.
- **Executive Order 11246, as amended.** Bars discrimination in federal employment because of race, color, religion, sex or national origin.
- **Executive Order 12892, as amended.** Requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The order also establishes the President's Fair Housing Council, which is chaired by the Secretary of HUD.
- **Executive Order 12898.** Requires that each federal agency conduct its programs, policies and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color or national origin.
- **Executive Order 13166.** Eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally subsidized and federally conducted programs and activities.
- **Executive Order 13217.** Requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

³ Ibid.

LEXINGTON-FAYETTE ORDINANCES

The Kentucky Civil Rights Act (K.R.S. Chapter 344), Urban County Ordinances 199-94 and 201-99, and provision 7.17 of the Lexington Fayette Merger Charter of 1974. All of these state and local ordinances give the Lexington-Fayette Urban County Human Rights Commission the right to investigate complaints of discrimination in Lexington-Fayette County based on race, color, religion, national origin, sex, age, disability, familial status and sexual orientation/gender identity in connection with housing, employment, and public accommodations.

FAIR HOUSING ACT (FHA)

The most important piece of legislation pertaining to fair housing is the federal Fair Housing Act (FHA). The FHA was initially enacted as Title VIII of the Civil Rights Act of 1968.⁴ It was later amended by the Fair Housing Amendment Act (FHAA) of 1988 and currently prohibits housing discrimination based on race, color, national origin, religion, sex, familial status and handicap. Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18. A handicap is a physical or mental impairment that substantially limits one or more person's major life activities.

Under the FHA, housing discrimination incorporates rentals, sales, mortgage lending, appraisals, homeowners insurance, zoning, tax assessment, blockbusting, and advertising.⁵ Specifically, the FHA prohibits taking any of the following actions based on race, color, national origin, religion, sex, familial status, or handicap:

- Refusing to rent or sell after an offer, refusing to negotiate to rent or to sell, or otherwise making unavailable or denying housing;
- Discriminating in the terms, conditions, or privileges of the sale or rental of housing;
- Representing that a dwelling is not available for inspection, sale, or rental when it is, in fact, available;
- Inducing or attempting to induce for profit the sale or rental of any dwelling by the entry or prospective entry of a person into the neighborhood (also referred to as blockbusting);
- Denying anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing;
- Refusing to make a mortgage loan or to provide information on a mortgage loan;
- Imposing different terms or conditions on a mortgage loan (such as interest rates, points, or fees);
- Discriminating in appraising a property; and

⁴ 42 U.S.C. §§ 3601-3619.

⁵ 42 U.S.C. §§ 3604-3619.

- Refusing to purchase a mortgage loan or setting different terms for purchasing a loan.

In addition, the FHA prohibits:

- Making, printing, publishing, or causing to be made any advertisement or notice for the sale or rental of housing that indicates a preference or limitation based on race, color, national origin, religion, sex, familial status, or handicap (the prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act);
- Coercing, intimidating, interfering, or threatening of an individual's ability to exercise their rights under the FHA; and
- Retaliating against an individual because they exercised their FHA rights.

The FHA includes exemptions for owner-occupied buildings with no more than four units; the sale or rental of single-family homes without the use of a real estate agent if the owner has no more than three properties; the sale, rental or occupancy of housing operated by a religious organization or private club to its members; or the limiting of familial status in housing for the elderly.⁶

Additional provisions of the FHA require allowing handicapped persons to make "reasonable modifications" to housing that they occupy or will be occupying so that they can afford full enjoyment of the premises. The landlord can, however, require a handicapped person to pay for any modifications and, in the case of rental housing, require the tenant to restore the apartment back to its original condition prior to modification. Landlords must also make "reasonable accommodations" in rules, policies, or services if necessary for a disabled person to use the housing.⁷

Finally, the FHA requires multifamily buildings that are ready for first occupancy after March 13, 1991, have an elevator, and have four or more units to meet minimum standards of accessibility for persons with disabilities:

- All public and common-use areas must be readily accessible to and usable by handicapped persons.
- All doors designed to allow passage into and within all apartments must be sufficiently wide to permit access by handicapped persons in wheelchairs.
- All apartments must contain an accessible route into and through the living space; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later

⁶ 42 U.S.C. §§ 3604-3619.

⁷ 42 U.S.C. §§ 3604.

installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units only.

While the FHA has federal jurisdiction, local, county and state laws, such as those ordinances that exist in Lexington-Fayette County, can include similar or additional protections for their residents against housing discrimination. State, county and local laws cannot revoke any protection guaranteed by the FHA, but they can expand protections to include classes of persons not covered under federal laws. For example, 14 states plus the District of Columbia have passed laws that provide protection for gays, lesbians, bisexuals, and transgender people, who are not federally protected by the Fair Housing Act.⁸

FAIR HOUSING LAW ENFORCEMENT

While HUD has primary responsibility for enforcing FHA, a fair housing complaint or claim can be filed not only with HUD but also with a local "substantially equivalent" agency, a state or local fair housing agency, or the judicial system (the courts).⁹ A substantially equivalent agency is a state or local agency that HUD has certified as enforcing a law that "provides substantive rights, procedures, remedies and judicial review provisions that are substantially equivalent to the federal Fair Housing Act."¹⁰ Discriminatory acts covered by state and local housing laws but not by the FHA are filed with a state, county or local fair housing agency or human rights agency. There is a one-year statute of limitations to file a complaint with HUD or a substantially equivalent agency and a two-year statute if filing with the judicial system.

After receiving a complaint, HUD or the local substantially equivalent agency has 100 days from the complaint filing date to either investigate or send written notification to both parties as to why an investigation was not completed. If the investigation finds discrimination or "reasonable cause" to believe the law was violated, a charge is issued against the person or entity committing the alleged discriminatory act, which will result in further legal action. The FHA requires that HUD or the substantially equivalent agency first attempt to reconcile each complaint before issuing a charge. If a resolution cannot be reached, the

⁸ Leadership Conference on Civil Rights Education Fund 2005.

⁹ In 1996, HUD began distinguishing between claims and complaints. A claim is a filing from a complainant that was not accepted for full investigation by HUD, nor referred to a fair housing agency, because it was untimely, did not allege discrimination based on a prohibited basis, or did not warrant continuation after an initial screening. (Schill and Friedman 1999).

¹⁰ HUD, OFHEO, 2004c.

complainant may choose to have the charge decided in federal district court with the Department of Justice or before a HUD administrative law judge.¹¹ In its capacity as an enforcement agent of the FHA for Lexington-Fayette County, the Lexington-Fayette Urban County Human Rights Commission investigates and processes complaints of unlawful discrimination in housing, employment and public accommodations. Citizens of the Lexington-Fayette County jurisdiction may file complaints with the Lexington-Fayette Urban County Human Rights Commission if they believe that they have suffered discrimination in housing, employment and places of public accommodations or discriminatory interferences with another person or property. The Lexington-Fayette Urban County Human Rights Commission is a deferral agency for two (2) federal agencies: the Equal Employment Opportunity Commission and HUD.

TRENDS IN FAIR HOUSING COMPLAINTS

The Lexington-Fayette Urban County Human Rights Commission has received complaints from individuals who believe that they have been subject to unlawful housing discrimination. The process begins with the complainant signing the complaint and having sworn to the fact that the complaint is true. Then the complaint is filed with the Lexington-Fayette Urban County Human Rights Commission. Once filed, the complaint is assigned to a staff investigator for investigation.

During the period FY2006 through FY2009, the Lexington-Fayette Urban County Human Rights Commission docketed a total of 111 housing discrimination complaints with allegations based on race (25) accounting for the largest proportion. National origin (23), disability (22), familial status (17), and sex (10) discrimination were the next four largest categories of complaints.¹²

During the period FY2006-FY2009, the Lexington-Fayette Urban County Human Rights Commission closed a total of 85 housing discrimination cases with the majority of the cases settled via conciliation and/or settlement.¹³

During the period FY2009, the trends in Fair Housing complaints received by the Lexington-Fayette Urban County Human Rights Commission have been housing discrimination cases with allegations of race, disability and sexual orientation.¹⁴

¹¹ 42 U.S.C. §§ 3610.

¹² Lexington-Fayette Urban County Human Rights Commission 2006-2009.

¹³ Ibid.

¹⁴ Ibid.

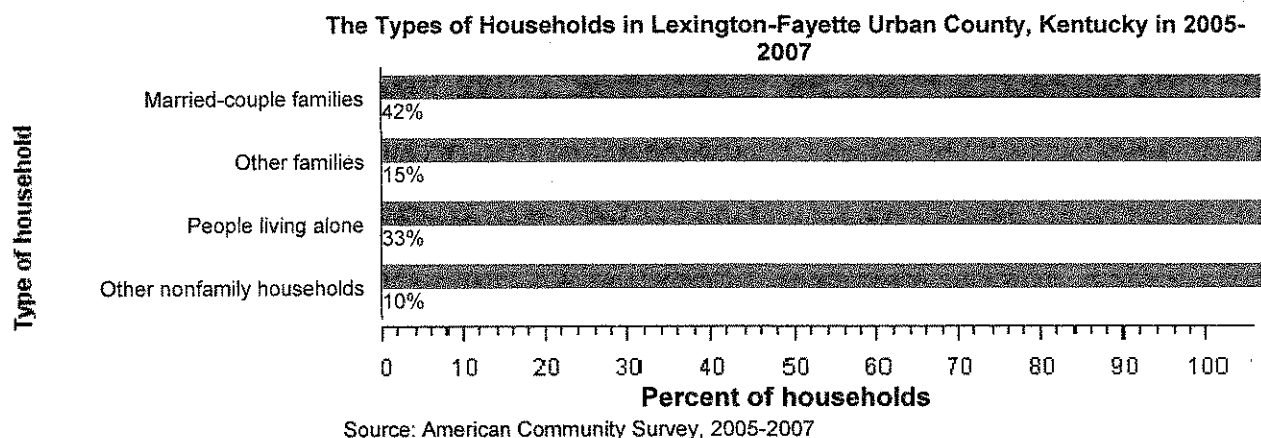
STATISTICAL DATA ON LEXINGTON-FAYETTE URBAN COUNTY, KENTUCKY

The following statistical information for the Lexington-Fayette Urban County, Kentucky jurisdiction was obtained from the American Community Survey 2005-2007 database and includes statistical data for:

- The various types of households
- The geographic mobility of residents
- The educational attainment of individuals
- The employment /career options by industry
- The types of housing units
- Occupants with a housing cost burden
- Poverty rates
- The age distribution of individuals

The Home Mortgage Disclosure Act (HMDA) data for the Lexington-Fayette Urban County, Kentucky jurisdiction was reviewed and analyzed. The conclusions associated with that review and analysis are also included in this section of the AI.

Lexington-Fayette Urban County, Kentucky American Community Survey: 2005-2007



From 2005-2007 there were 117,000 households in Lexington-Fayette Urban County, Kentucky. The average household size was 2.3 people.

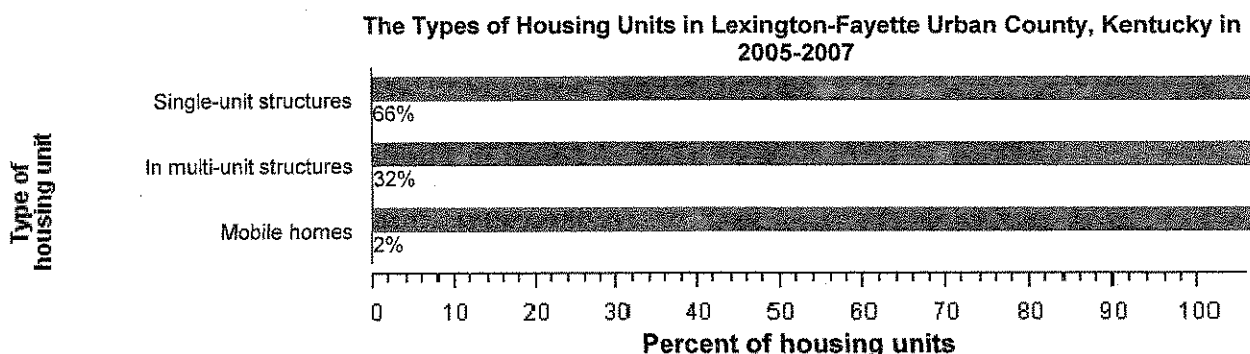
Families make up 57% of the households in Lexington-Fayette Urban County, Kentucky. This figure includes both married-couples (42%) and other families (15%). Non-family households made up 43% of all households in Lexington-Fayette Urban County, Kentucky. Most of the non-family households were people living alone, but some were composed of people living in households in which no one was related to the householder.

Eight percent of the people living in Lexington-Fayette Urban County, Kentucky (from 2005-2007) were foreign born. 92% was native, including 61% who were born in Kentucky.

Among at least five years old living in Lexington-Fayette Urban County, Kentucky from 2005-2007, 10% spoke a language other than English at home. Of those speaking a language other than English at home, 50% spoke Spanish and 50% spoke some other language; 49% reported that they did not speak English "very well".

In Lexington-Fayette Urban County, Kentucky, among people at least five years of age from 2005-2007, 14% reported a disability. The likelihood of having a disability varied by age from 8% of people 5 to 15 years old, to 12% of people 16 to 64 years old, and to 39% of people aged 65 and older.

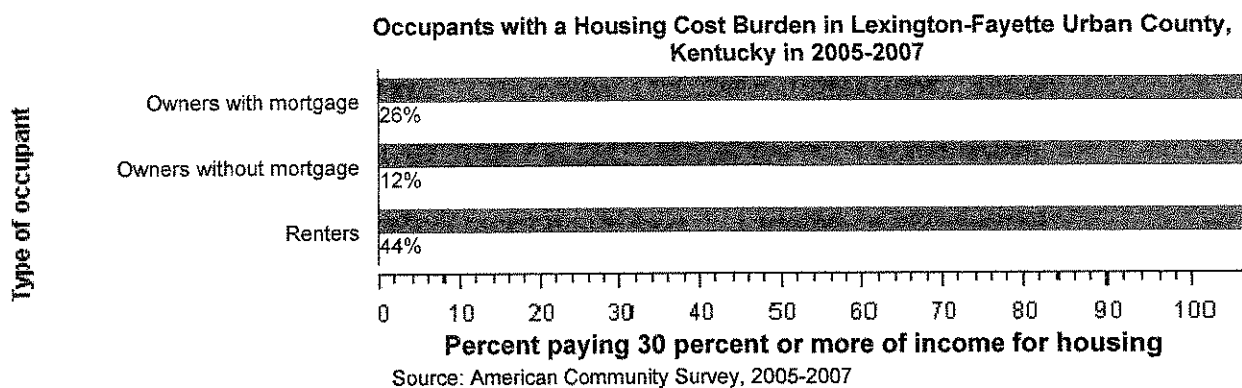
**Lexington-Fayette Urban County, Kentucky
American Community Survey: 2005-2007**



Housing Characteristics: From 2005-2007, Lexington-Fayette Urban County, Kentucky had a total of 130,000 housing units, 10% of which were vacant. Of the total housing units, 66% was in single-unit structures, 32% was in multi-unit structures, and 2% was mobile homes. 29% of the housing units were built since 1990.

Occupied Housing Unit Characteristics: From 2005-2007, Lexington-Fayette Urban County, Kentucky had 117,000 occupied housing units –69,000 (59%) owner occupied and 48,000 (41%) renter occupied. 8% of the households did not have telephone service and 7% of the households did not have access to a car, truck, or van for private use. Multi-vehicle households were not rare. 40% had two vehicles and another 15% had three or more vehicles.

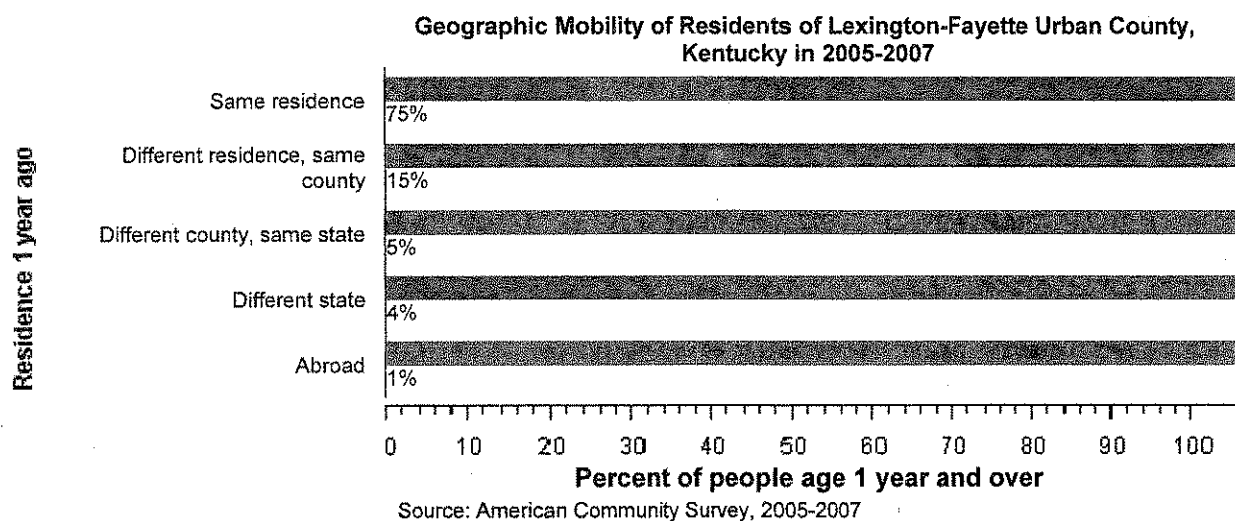
**Lexington-Fayette Urban County, Kentucky
American Community Survey: 2005-2007**



Housing Costs: From 2005-2007, the median monthly housing costs for mortgaged owners was \$1,196, non-mortgaged owners \$346, and renters \$639. 26% of owners with mortgages, 12% of owners without mortgages, and 44% of renters in Lexington-Fayette Urban County spent 30% or more of household income on housing.

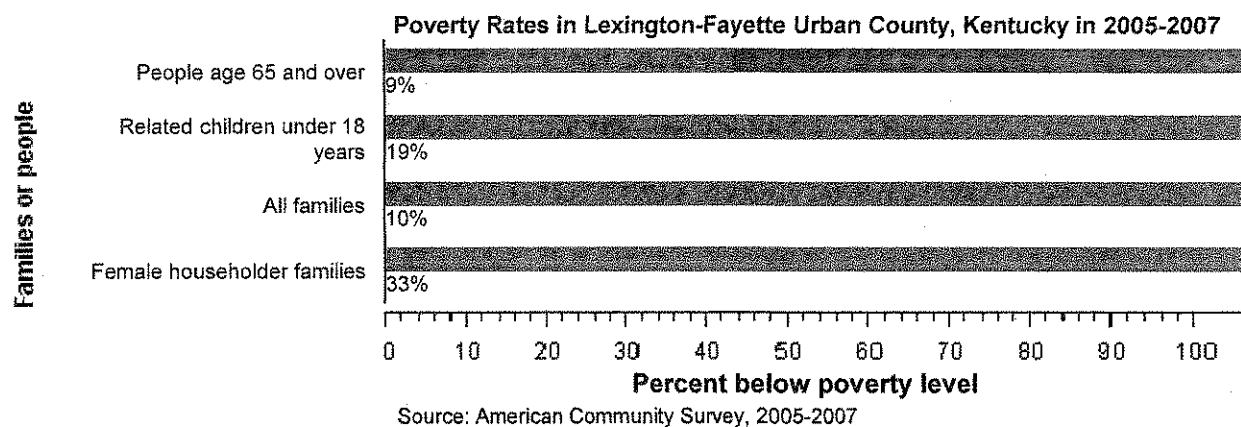
Income: From 2005-2007, the median income of households in Lexington-Fayette Urban County was \$45,622 on an annual basis. 85% of the households received earnings and 15% received retirement income other than Social Security. 21% of the households only received Social Security. The average income from Social security was \$13,721. These income sources are not mutually exclusive; that is, some households received income from more than one source.

Lexington-Fayette Urban County, Kentucky American Community Survey: 2005-2007



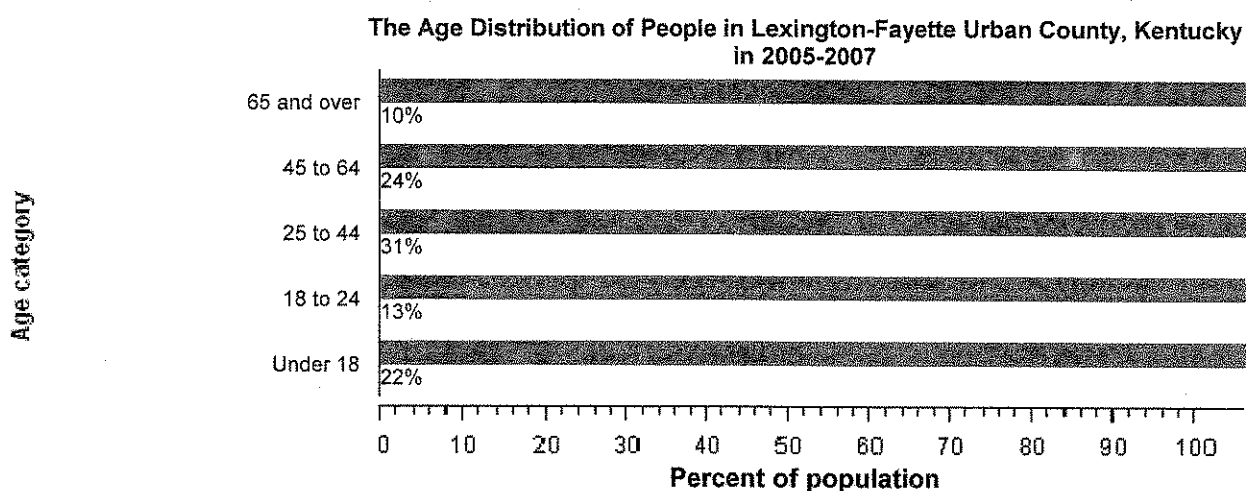
From 2005-2007, 75% of the people at least one year old living in Lexington-Fayette Urban County, Kentucky were living in the same residence one year earlier; 15% had moved during the past year from another residence in the same county, 5% from another county in the state, 4% from another state, and 1% from abroad.

**Lexington-Fayette Urban County, Kentucky
American Community Survey: 2005-2007**



From 2005-2007, 16% of people were in poverty. 19% of related children over 18 were below the poverty level, compared with 9% of people 65 years of age and older. 10% of all families and 33% of families with a female householder and no husband present had incomes below the poverty level.

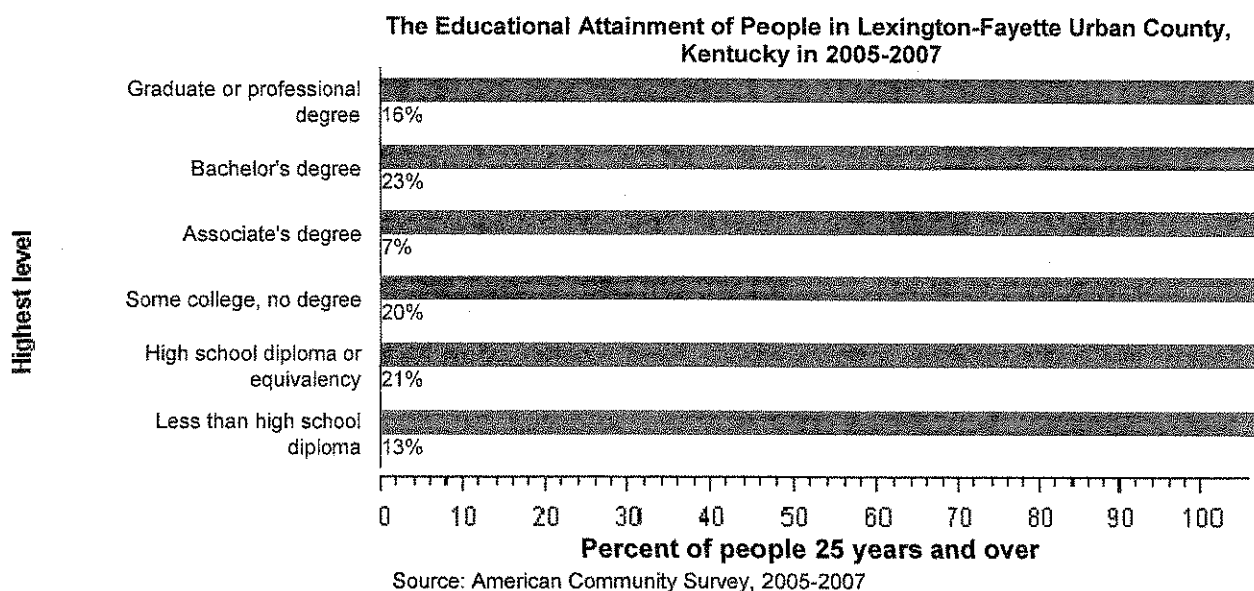
Lexington-Fayette Urban County, Kentucky American Community Survey: 2005-2007



From 2005-2007, Lexington-Fayette Urban County, Kentucky had a total population of 276,000 with a breakdown of 139,000 (51%) females and 136,000 (49%) males. The median age was 34.7 years. 22% of the population was under 18 years and 10% was 65 years and older.

For people reporting one race alone, 81% was White; 14% was Black or African American; less than 0.5% was American Indian and Alaska Native; 3% was Asian; less than 0.5% was Native Hawaiian and Other Pacific Islander; and 2% was Some Other Race. 2% reported two or more races. 5% of the people in Lexington-Fayette Urban County, Kentucky were Hispanic. 76% of the people were White non-Hispanic. People of Hispanic origin may be of any race.

**Lexington-Fayette Urban County, Kentucky
American Community Survey: 2005-2007**



From 2005-2007, 87% of people 25 years and older had at least graduated from high school and 39% had a bachelor's degree or higher. 13% were dropouts and were not enrolled in any school and had not graduated from high school.

The total school enrollment in Lexington-Fayette Urban County, Kentucky was 77,000 from 2005-2007. Nursery school and kindergarten enrollment was 7,800 and elementary or high school enrollment was 37,000 children. College or graduate school enrollment was 32,000.

Among the most common occupations were: Management, professional, and related occupations at 42%; Sales and office occupations at 26%; Service occupations at 15%; Production, transportation and material moving occupations at 9%; and Construction, extraction, maintenance and repair occupations at 7%. 76% of the people employed were private wage and salary workers; 18% was Federal, state or local government workers; and 6% were Self-employed.

HOME MORTGAGE DISCLOSURE ACT (HMDA)

The Home Mortgage Disclosure Act, enacted by Congress in 1975 and implemented by the Federal Reserve Board's Regulation C, requires lending institutions to report public loan data.

In reviewing the HMDA data for the Lexington-Fayette County, Kentucky jurisdiction, the statistical data did not reveal any lending patterns which could be interpreted to be adverse to any race, population or age group. The data also showed and supported the fact that lending institutions are overall meeting the housing credit needs of their communities which also helps local public officials target their community development investment and re-investment funds.

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